

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-1629V

UNPUBLISHED

JAMES COWARD,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 21, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Tetanus Diphtheria acellular
Pertussis (Tdap) Vaccine; Influenza
(Flu) Vaccine; Guillain-Barre
Syndrome (GBS)

Simina Vourlis, Law Offices, Columbus OH, for Petitioner.

Linda Sara Renzi, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On October 21, 2019, James Coward filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered Guillain-Barre syndrome (“GBS”) as a result of an influenza (“flu”) and tetanus-diphtheria acellular pertussis (“Tdap”) vaccines administered to him on October 3, 2017. Petition at 1. Petitioner further alleges he suffered his vaccine related injury for more than six months. Petition at 7. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 15, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for GBS. On December 18, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded a total of \$139,665.54, consisting of \$135,000.00 in pain and suffering and \$4,665.54 in past

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

unreimbursed expenses. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$139,665.54, consisting of \$135,000.00 in pain and suffering and \$4,665.54 in past unreimbursed expenses in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

| | | |
|---------------------|---|----------------------|
| JAMES COWARD, |) | |
| |) | |
| Petitioner, |) | No. 19-1629V |
| |) | Chief Special Master |
| v. |) | Brian H. Corcoran |
| |) | ECF |
| SECRETARY OF HEALTH |) | |
| AND HUMAN SERVICES, |) | |
| |) | |
| Respondent. |) | |

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Compensation for Vaccine Injury-Related Items

On September 14, 2020, the Secretary of Health and Human Services (“respondent”) filed his Rule 4(c) Report conceding that petitioner suffered the Table injury of GBS following a flu vaccine within the Table time period, and is entitled to compensation. On September 15, 2020, the Court issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF 29; ECF 30. Respondent proffers that based on the evidence of record, petitioner should be awarded \$139,665.54 consisting of \$135,000.00 in pain and suffering and \$4,665.54 in past unreimbursed expenses. This amount represents all elements of compensation to which petitioner is entitled under **42 U.S.C. § 300aa-15(a)(1); 15(a)(3)(A)**; and 15(a)(4). Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment as described below, and request that the Chief Special Master's decision and the Court's judgment award the following:¹

A lump sum payment of \$139,665.54, in the form of a check payable to petitioner, James Coward. This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

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Acting Director
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Deputy Director
Torts Branch, Civil Division

DARRYL R. WISHARD
Assistant Director
Torts Branch, Civil Division

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

/s/ Linda S. Renzi
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Dated: December 18, 2020